



## MSHCP LDMF Implementation

### Frequently Asked Questions

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For more information, contact:

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#### 1. What is the Multiple Species Habitat Conservation Plan (MSHCP)?

The Western Riverside County MSHCP, originally adopted in 2004, is a comprehensive, multi-jurisdictional Habitat Conservation Plan (HCP) focusing on the permanent conservation of 500,000 acres and the protection of 146 species, including 33 that are currently listed as threatened or endangered. The MSHCP was developed in response to the need for future growth opportunities in western Riverside County, from housing developments to transportation and infrastructure, while addressing the requirements of the State and federal Endangered Species Acts (ESA). The MSHCP serves as an HCP pursuant to Section 10(a)(1)(B) of the federal Endangered Species Act of 1973 as well as a Natural Communities Conservation Plan (NCCP) under California's NCCP Act of 2001. The MSHCP streamlines these environmental permitting processes by allowing the participating jurisdictions to authorize "take" of plant and wildlife species identified within the Plan Area and has saved taxpayers by expediting the construction of more than 30 major freeway and road improvements in Riverside County valued at more than \$5 billion.

#### 2. What is the Local Development Mitigation Fee (LDMF)?

Funding of the MSHCP is derived from federal, state, and local sources. However, the main funding source for local acquisitions is the imposition and collection of the LDMF. The LDMF is a fee imposed on new local residential, commercial, and industrial development and infrastructure and civic projects and contributes to the overall funding required to implement the MSHCP. The LDMF is imposed pursuant to California Government Code Section 66000 et seq. ("The Mitigation Fee Act"). The fee is administered by the Western Riverside County Regional Conservation Authority (RCA) but collected by the Local Permittees. Imposition of the LDMF is an express commitment of local agencies that signed the MSHCP and Implementing Agreement (IA).

#### 3. What is the Implementing Agreement (IA)?

The IA was entered into by signatories to the MSHCP in June 2004 to ensure implementation of and compliance with each of the terms of the MSHCP and for the benefit of the 146 Covered Species, while allowing for future economic growth. In addition, the IA:

- Provides remedies and recourse should any Party fail to perform its obligations, responsibilities, and tasks as set forth in the MSHCP, the Permits, and the IA;
- Provides assurances to Permittees and others participating in the MSHCP that implementation of the IA and the MSHCP will adequately provide for the conservation and protection of Covered Species Adequately Conserved in their habitats in the Plan Area; and
- Provides that if the terms of the MSHCP, the IA, and the Permits are properly implemented, the Wildlife Agencies will not require additional mitigation from Permittees with respect to Covered Species Adequately Conserved.

Signatories to the IA include the 18 western Riverside County cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, and Wildomar; the County of Riverside; County Flood Control and Water Conservation District; County Regional Park and Open-Space District; County Department of Waste Resources; the Riverside County Transportation Commission; the California Department of Transportation; the California Department of Parks and Recreation; the United States Fish and Wildlife Service; and the California Department of Fish and Wildlife.

#### 4. Who are Local Permittees?

Local Permittees are the local agencies which are signers of the federal Endangered Species Act permit issued by the United States Fish and Wildlife Service. They include the 18 western Riverside County cities of Banning, Beaumont, Calimesa,

Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, and Wildomar; the County of Riverside; County Flood Control and Water Conservation District; County Regional Park and Open-Space District; County Department of Waste Resources; and the Riverside County Transportation Commission. The California Departments of Transportation and Parks and Recreation are also signers of the permit; however, those organizations are not considered local permittees. Per Section 6 of the MSHCP, local jurisdictions will implement the MSHCP through their normal land use, planning, and approval process as described in Section 6.1.1 as well as through management of contributed public lands. By fulfilling their requirements under the MSHCP, including imposition of the LDMF, Local Permittees retain the benefits of the MSHCP, ranging from ESA coverage for projects within their jurisdiction and Measure A transportation funding.

## **5. Who are Member Agencies of the RCA?**

Member Agencies are the signatories to the Joint Exercise of Powers Agreement forming the Western Riverside County Regional Conservation Authority (RCA). They include the 18 western Riverside County cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, and Wildomar and the County of Riverside. The Member Agencies form the independent RCA Board of Directors to acquire, administer, operate, and maintain land and facilities to establish habitat reserves for the conservation and protection of species covered by the MSHCP and to implement the MSHCP.

## **6. What other Funding Sources Contribute to the MSHCP?**

- Measure A
- Regional Transportation Funding (Public contributions from regional transportation infrastructure projects)
- Landfill Tipping Fees
- Mitigation Fees, including private development mitigation fees
- Federal and State grants

## **7. What is the 2020 Nexus Study?**

The Western Riverside County MSHCP 2020 Nexus Study establishes the legal and policy basis by which a mitigation fee, pursuant to "The Mitigation Fee Act" (California Government Code Section 66000, et seq.), contributes to finance habitat acquisition and other appropriate uses in connection with new development in the MSHCP Plan Area. The 2020 Nexus Study provides a thorough analysis of costs, funding sources, and forecasts future development in western Riverside County. It also provides the financial and technical justification for changes to the LDMF. The full 2020 Nexus Study can be reviewed at [www.wrc-rca.org](http://www.wrc-rca.org).

## **8. Why was a Nexus Study update needed?**

An updated Nexus Study was needed to ensure adequate funding to complete the MSHCP and fulfill the responsibilities of Local Permittees as required by the MSHCP Implementing Agreement.

A Nexus Study was completed in 2003 coinciding with the adoption of the MSHCP, Implementing Agreement, and the signing of the Permits. Section 8.5.1 of the MSHCP allows the fee to be reevaluated and revised should it be found to insufficiently cover mitigation of new development. The 2020 Nexus Study represents the first reevaluation of the LDMF since originally implemented.

## **9. What were the results of the 2020 Nexus Study?**

The 2020 Nexus Study determined the fee level required to provide sufficient revenues to support the full implementation of the MSHCP, including the completion of all land acquisition and the funding for the Plan endowment, by 2044 (Year 40 of Plan implementation). The endowment will cover the administration and land management and monitoring after the completion of land acquisition. This represents a 15-year extension of the acquisition period as approved by the RCA Board of Directors at its December 2020 board meeting.

As noted on pages 6 and 7 of the 2020 Nexus Study and discussed in detail in Chapters 2 through 7, the key drivers of the fee change are:

- Lower-than-expected land dedications through the Habitat Evaluation and Acquisition Negotiation Strategy (HANS);
- Lower than expected regional infrastructure public contributions; and
- Desire to implement a “per gross acre” fee which provides a more consistent and equitable approach for all land use development types.

## 10. Why is the LDMF Changing?

As a result of lower-than-expected land dedications, regional infrastructure public contributions, and the desire to implement a “per gross acre” fee, the 2020 Nexus Study determined the LDMF will increase on all categories except for high-density residential, to provide the financial certainty to complete the MSHCP and maintain the habitat in perpetuity. The LDMF increases will support the continued implementation of the MSHCP and the streamlining of endangered species incidental take permitting for new western Riverside County development provided under the MSHCP, while providing the funding necessary to acquire, monitor, and manage the 500,000 acres required by the MSHCP. Also, the LDMF increases will ensure long-term protection and maintenance of the habitats. Without updating the LDMF, Local Permittees would be unlikely to meet their commitments as agreed to in the Implementing Agreement, the ultimate consequence of which would be revocation of the endangered species incidental take permits by state and federal agencies.

## 11. How is the LDMF Changing?

| Nexus Study LDMF Fee Schedule                     |                                  |                        |                           |
|---|----------------------------------|------------------------|---------------------------|
| Category  | Current fee per unit or per acre | Effective July 1, 2021 | Effective January 1, 2022 |
| Residential: Up to 8.0 dwelling units/acre (DUAC) | \$2,234                          | \$2,935                | \$3,635                   |
| Residential: 8.0-14 DUAC                          | \$1,430                          | \$1,473                | \$1,515                   |
| Residential: 14.0+ DUAC                           | \$1,161                          | \$670                  | \$670                     |
| Commercial (per acre)                             | \$7,606                          | \$11,982               | \$16,358                  |
| Industrial (per acre)                             | \$7,606                          | \$11,982               | \$16,358                  |

## 12. Who Approved the Nexus Study and LDMF Increase?

The RCA Board of Directors adopted the 2020 Nexus Study and increase in LDMF at its December 7, 2020 public board meeting by a 17-1 vote.

## 13. When is the LDMF increase effective?

The LDMF increase is effective in two phases. The first phase, an increase of 50%, is effective July 1, 2021. The second phase, full implementation, is effective January 1, 2022.

## 14. What is needed from Member Agencies regarding the Ordinance and Resolution?

Member Agencies must prepare the ordinance and resolution to be considered and approved by the City Council (Board of Supervisors in the case of the County of Riverside) in time to implement the new fee by July 1, 2021. Final action of the city council/Board of Supervisors must be no later than May 2, 2021 to ensure the new Ordinance takes effect by July 1, 2021. California Government Code Section 66017 states that the fee “shall be effective no sooner than 60 days following the final action on the adoption of the fee or charge or increase in the fee or charge.”

Per the Implementing Agreement which cities and the County of Riverside signed, the cities and County must adopt the Ordinance, “in substantially the same form or at a minimum, containing the same requirements as the model ordinance,” adopted by the RCA Board of Directors.

**15. Why was the Resolution added separately from the Ordinance?**

The Resolution was added in addition to the Ordinance to allow for a more efficient process to update future fee changes.

**16. What changes are in the Ordinance?**

The original model ordinance for Member Agencies to implement the LDMF was included in the Implementing Agreement which was approved in June 2004. Several changes are made to the model Ordinance including:

- Language is added to the Ordinance reaffirming RCA as the administrator of the Ordinance; authorizing the RCA to receive all fees generated; and to invest, account for, and expend such fees in accordance with the MSHCP. These functions are consistent with current practices;
- Additional clarification is added with respect to refunds;
- Exemptions are clarified;
- Language is added to clarify that the LDMF will be paid no later than at the issuance of a building permit;
- Language was added concerning the mitigation of public projects and fee credits allowing the RCA Board of Directors to rescind Resolution Nos. 2007-04 and 2016-003 and the “Tenets Relating to Local Infrastructure Contribution” adopted on February 5, 2007.

**17. What is the MSHCP Mitigation Fee Implementation Manual?**

The MSHCP Mitigation Fee Implementation Manual (Manual) is an administrative document that provides direction to local jurisdictions under the MSHCP concerning their obligations under the MSHCP and the incidental take permits regarding the imposition, collection, accounting, remittance, and calculation of the LDMF. The Manual sets the rules for fee implementation, discusses collection and remittance of fees, outlines the appropriate methods for calculating mitigation fee payments for different types of projects, and provides multiple examples of how to apply the LDMF. The Manual can be updated by the RCA Board of Directors to address ongoing concerns at any time. Changes to the LDMF can only be made by Resolution and not through an update to the Manual.

**18. How are Measure A transportation sales tax funds related to the LDMF?**

To be eligible for Measure A transportation funds, Member Agencies are required to implement and remit the LDMF in accordance with the MSHCP. This is a requirement of the Measure A Ordinance adopted by Riverside County voters. Annually, RCA certifies Member Agency compliance to RCTC.

**19. Who should I contact with questions about implementation of the LDMF?**

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